

### **Remarks**

Claims 1, 3-25 and 27-31 are presently pending in the application. Claims 2 and 26 have been canceled and claims 1 and 25 have been amended by incorporating the subject matter of claims 2 and 26, respectively. The language from claims 2 and 26 has been amended to delete the alternative term "or" and place the claims in better form. In addition, claims 6, 11, 18 and 28 have been amended by rewriting the claims into independent form. With respect to claim 6, which originally depended from claim 5, the subject matter of claim 5 has not been incorporated in new claim 6, because it is not believed to be essential to patentability. Instead, claim 5 has been rewritten as new claim 31, insofar as it relates to claim 6. No new matter has been added to the application by the Amendment.

### ***Rejection - 35 U.S.C. § 102***

The Examiner rejected claim 1 along with claims 3-5, 9, 10, and 16-17, which depend on claim 1, and claim 25 along with claims 27, and 29-30, which depend on claim 25 under 35 U.S.C. § 102 as being unpatentable over Howe et al. The Examiner states that Howe *et al.* shows an optical recording medium comprising a substrate having grooves therein, a reflective layer, a dye recording layer and a transparent cover layer. The Examiner further states that the recording layer is formed to have a substantially planar surface and that the layers are formed by spin coating. Applicants respectfully traverse the rejection.

Claim 1, now amended to include all the features of cancelled claim 2 recites, *inter alia*,  
a reflection layer ...;

a recording layer, formed over the reflection layer, for substantially filling an inside of the recess, wherein a thickness of the recording layer in a bottom portion of the recess of the first base plate is at least 1.5 times as large as a thickness of the recording layer in a flat portion of the first base plate; and

a transparent member that is capable of transmitting writing/reading radiation, said transparent member covering the recording layer.

This language distinguishes over Howe *et al.* under Section 102 because Howe *et al.* does not show a recording layer with thickness proportions where  $t_1$  is at least 1.5 times as large as  $t_2$ . See Fig. 1B. Accordingly, Howe *et al.* does not disclose each and every feature of claim 1 and claims 3-5, 9, 10, and 16-17 dependent therefrom.

Therefore, Applicants respectfully submit that claim 1 and claims 3-5, 9, 10, and 16-17 dependent therefrom are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Amended claim 25 similarly defines over Howe *et al.* Claim 25, now amended to include all the features of cancelled claim 26 recites, *inter alia*,

substantially filling an inside of the recess with a recording layer,  
wherein a thickness of the recording layer in a bottom portion of the recess formed in a surface of the reflection layer is at least 1.5 times as large as a thickness of the recording layer in a flat portion of the surface of the reflection layer;

applying a material which is substantially transparent; and  
curing the substantially transparent material.

This language distinguishes over Howe *et al.* under Section 102 because Howe *et al.* does not show a recording layer with thickness proportions where  $t_1$  is at least 1.5 times as large as  $t_2$ . See Fig. 1B. Accordingly, Howe *et al.* does not disclose each and every feature of claim 25, and claims 27, and 29-30 dependent therefrom.

Therefore, Applicants respectfully submit that claim 25 and claims 27 and claims 29-30 dependent therefrom are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

It is noted that the Examiner has objected to claims 2, 6-8, 11-15, 18, 26 and 28 as being dependent on a rejected base claim, but would be allowable if written in independent form. Claims 2 and 26 have been rewritten in independent form as amended claims 1 and 25 and claims 6, 11, 18 and 28 have been rewritten in independent form as well. It is submitted that these claims are now allowable, together with all of the remaining claims which depend directly or indirectly therefrom.

**Conclusion**

In view of the above amendments, it is submitted that all of the claims in the application patentably distinguish over the prior art of record. Reconsideration of the objections and rejections and an early Notice of Allowance are respectfully solicited.

Respectfully submitted,

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